

REMARKS/ARGUMENTS

Claim 1 has been amended, and Claims 7 and 14 have been canceled, without prejudice or disclaimer; therefore, Claims 1-6 and 8-13 are pending. Applicants have carefully considered the application in view of the Examiner's action and, in light of the foregoing amendments and the following remarks, respectfully requests reconsideration and full allowance of all pending claims.

Claims 7 and 14 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting a gap between the steps. In response, Applicants have cancelled Claims 7 and 14, without prejudice or disclaimer, rendering the rejection thereof moot. In light of the foregoing, Applicants respectfully request the withdrawal of the rejection of Claims 7 and 14 under 35 U.S.C. § 112, *second* paragraph.

Claims 2, 3, 9, and 10 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-3, 10, 12, and 13 of U.S. Patent Application Ser. No. 10/774,307. Claims 1, 4-6, 8, 11, and 12 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1, 4, and 10 of U.S. Patent Application Ser. No. 10/774,307 in view of U.S. Patent Application Publication No. US 2003/0007459 A1 to Yi et al. (hereinafter "*Yi*"). Claim 13 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1, 4, and 10 of U.S. Patent Application Ser. No. 10/774,307 in view of *Yi* and U.S. Patent No. 5,253,253 to Brame (hereinafter "*Brame*"). Claim 7 and 14 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 10 of U.S. Patent Application Ser. No. 10/774,307 in view of *Yi* and U.S. Patent Application Publication No. 20020159410 A1 to Odenwalder (hereinafter "*Odenwalder*").

Claims 2, 3, 5, and 9-12 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-5 of U.S. Patent Application Ser. No. 10/774,059. Claims 1, 4, and 8 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1, 4, and 5 of U.S. Patent Application Ser. No. 10/774,059 in view of "*Yi*". Claims 6 and 13 stands

provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 and 7 of U.S. Patent Application Ser. No. 10/774,059 in view of *Yi* and *Brame*. Claim 7 and 14 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent Application Ser. No. 10/774,059 in view of *Yi* and *Odenwalder*.

In response, Applicants have attached herewith two Terminal Disclaimers in compliance with 37 C.F.R. § 1.321(c), along with authorization to charge the fees required under 37 CFR § 1.20(d) to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P. Inasmuch as Applicants believe, as discussed below, that rejections based on *Yi*, *Brame*, and *Odenwalder*, or any combination thereof, have been overcome, it is respectfully submitted that the Terminal Disclaimers overcome the rejections set forth under the doctrine of obviousness-type double patenting, thereby placing Claims 1-6 and 8-13 in condition for allowance.

Claims 1-5 and 8-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Yi*. Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yi* in view of *Brame*. Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yi* in view of *Odenwalder*. In response, Applicants have cancelled Claims 7 and 14, without prejudice or disclaimer, rendering the rejection thereof moot, and Applicants respectfully traverse the remaining rejections for the following reasons.

The present invention relates to a method of operating a device in a mobile communications network, for which *Yi* has been cited. *Yi* however, fails to teach, or even suggest a distinguishing feature recited in independent Claim 1, namely:

“in response to a signal from said RLC layer, said signal being indicative of discard of said SDU, causing said RRC layer to resubmit said SDU to said RLC layer a predetermined number N of times”

Similarly, in independent Claim 8, *Yi* fails to teach or suggest:

“in response to an indication that the timing process has reached a predetermined timeout, causing said RRC layer to resubmit said SDU to said RLC layer a predetermined number N of times, on each occasion starting said timing process”

In paragraph [0085] of *Yi*, *Yi* teaches the retransmission of information by TLC. However, in clear contrast to Applicants' invention, *Yi* fails to teach or even suggest an RRC

layer resubmitting an SDU to the RLC layer. Accordingly, *Yi* fails to teach or suggest the above-identified feature of Applicants' invention as recited in independent Claims 1 and 8.

Yi also fails to teach, or even suggest, a further distinguishing feature recited in independent Claim 1, whereby:

“in response to N further signals indicative of said discard, causing said RRC layer to submit to said RLC layer a failure response message indicative that said process indicated by the information of the SDU has failed”

Similarly, in independent Claim 8, *Yi* fails to teach or suggest:

“in response to N further timeout signals, causing said RRC layer to submit to said RLC layer a failure response message indicative that said process indicated by the information of the SDU has failed”

In connection with the foregoing, Applicants note paragraph [0008] of the present application which states: “in accordance with clause 9.7.3 of 25.322 specification, the RLC layer of the 3G UMTS stack may, in certain circumstances, discard an SDU (Service Data Unit). There are thus proposed strategies for handling the discard of an SDU”.

In view of the foregoing, it is apparent that *Yi* fails to teach, suggest, or render obvious the unique combination now recited in independent Claims 1 and 8. It is therefore respectfully submitted that Claims 1 and 8 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by *Yi* be withdrawn.

Claims 2-6 and 9-13 depend from and further limit independent Claims 1 and 8 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejections of dependent Claims 2-6 and 9-13 be withdrawn, as well.

Enclosed is a Petition for Extension of Time, along with authorization to charge the extension of time fees to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P.

Applicants do not believe any fees are due in connection with the filing of this paper, other than fees associated with the accompanying Terminal Disclaimers; however, in the event that any other fees are due, the Commissioner is hereby authorized to charge any required fees

due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper, to Deposit Account No. 50-2032 of Scheef & Stone, L.L.P.

Applicants have reviewed the prior art made of record and not relied on, and has concluded that this art does not prejudice the patentability of the invention as defined by the present claims. For this reason and the reason that they have not been applied against Applicant's claims, no further discussion of them is deemed necessary.

Applicants have now made an earnest attempt to place this application in condition for allowance. Therefore, Applicants respectfully request, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-6 and 8-13 so that the application may be passed to issue.

Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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